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BY FAX AND MAIL

August 8, 2008

Mr. Kelly Keenan Esq.
Legal Counsel to the Governor
The Honorable Jennifer M. Granholm
George W. Romney Building
111 South Capitol Avenue
Lansing, Michigan 48909

Re: Notice of Hearing of September 3, 2008

Dear Counselor Keenan,

I have received your notice of hearing and it is my understanding that Mr. Goodman has informed the press that the Governor has scheduled this hearing because she has rejected our arguments and intends to remove the Mayor. I am very concerned that there may be information that Mr. Goodman is receiving that is not being shared with me. If there have been additional ex-parte meetings with the Governor, as referenced in your letter of June 3, 2008, I would like to be informed of those discussions as well as to also have the opportunity to speak to the Governor ex-parte, particularly if she has decided to hold hearings. In the alternative, I am seeking a list of the dates and times of those ex-parte discussions as well as the names of all participants; On behalf of my client, I am requesting that no additional ex-parte discussions be allowed.

I did receive Mr. Goodman's filing yesterday. It was delivered to me by an attorney from the Council's Research and Analysis Division.



The attorney from RAD did not seem to be clear on what to do with the corrected memorandum that I sent, aligning the exhibits and making the typographical edits. As a result, I am advising both you and Mr. Goodman that the corrected memorandum replaces the one that you received on August 6th and it makes sense to simply remove the earlier memorandum from the book and replace it with the corrected one. It is a little confusing when reviewing this kind of document, if the exhibits are not correctly lined up with the text and I had hoped to avoid any difficulty you might have in reviewing the document.

Relative to the hearing that has been scheduled, I have not been informed as to whether the Governor actually intends to hold a hearing? I did not think that she had enough time, given all of her responsibilities, to review all of the documents that both parties had submitted, when suddenly I heard that she had scheduled a hearing and media representatives were calling me for a response. In that we are only being given nine (9) days to prepare for a hearing which in every respect will mirror a criminal trial, it is important that the procedures for said hearing be communicated to us immediately.

Moreover, your letter of July 28th, accelerating the briefing schedule, provides that the Governor will decide whether a hearing is warranted only after August 22nd, upon review of the motions, briefs, response briefs and reply briefs, if any.

In addition to responding to this accelerated briefing schedule, in view of the potential that this hearing has to impact the charges brought by the Wayne County Prosecutor, it will be necessary to prepare for the hearing as if it were, in fact, a criminal trial. In this regard, I am requesting information as to the availability of discovery, the time for the exchange of witness lists, as well as the applicability of subpoenas, the local court rules and the Michigan Rules of Evidence among other legally mandated requirements applicable to administrative, civil and criminal proceedings. If there is any written process or procedure that the Governor intends to follow, in all fairness to the parties, it must be shared with us.

In that the Council as a body is the Petitioner, I assume that you will waive their legislative immunity for the purpose of this proceeding? Please advise. We will expect that all of the members who voted for the resolution underlying the Governor's removal process will indeed be available to testify and will be subject to cross-examination.

Finally, I am requesting that you immediately advise me as to the availability of immunity for witnesses and the Respondent, who will or may testify at the Governor's hearing.



In that we have only six (6) days to respond to the Petitioner's motion, I would ask that you respond to this letter within a few days, to allow us some time to determine the appropriate action to recommend to our client.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Sharon McPhail'.

Sharon McPhail

Counsel to the Honorable Kwame M. Kilpatrick

Cc: William Goodman
David Whitaker
James Thomas
Mayer Morganroth
Elbert Hatchett
John Johnson
Daniel Webb
James Parkman